

EXHIBIT

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Harn, Adam Stanley

From: Pepmeyer, Jennifer S. <JPepmeyer@grblaw.com> on behalf of Doherty, Jaime N. <jdoherty@grblaw.com>
Sent: Thursday, April 23, 2020 5:54 PM
To: Mason, Richard
Cc: Doherty, Jaime N.; Fergus, Matthew C.
Subject: CONFIDENTIAL: FOR SETTLEMENT PURPOSES ONLY: National Liability & Fire Insurance Company v. Brimar Transit Inc. v. Pittsburgh Public School District, additional insured - Civil Action No. 2:18-cv-01129 and M.M., parent and natural guardian of K.M., a min

****EXTERNAL SENDER****

SENT ON BEHALF OF JAIME N. DOHERTY, ESQUIRE:

Rich:

I know that we will speak tomorrow, before noon. However, I wanted to provide you with a more formalized claim for attorneys' fee reimbursement, pursuant to Judge Fischer's Order in the federal case which requires National to provide a defense to the District. The amount of fees incurred, from the time of tender (12/17) through the present is \$217,317.76. You have asked for substantiation for this amount. I think that by tomorrow morning, I can provide you with a bill and payment history. If you will want each and every invoice back from December 2017, that will take more time to generate. In addition to the fees portion of the claim, we have retained experts on behalf of the District, one of whom is shared with Brimar, Dr. Avram Mack, the medical expert who is conducting a medical records review and possible IME of the plaintiff. We have also retained a second expert to prepare a report on the standard of care and reasonability of the District's response to the gym and van incidents that are the subject of the underlying case. That expert is not shared with Brimar and will likely point, in part, to Brimar's failures with respect to the van situation. We have been invoiced approximately \$16,000 thus far by those experts. These reports are very strong, in the District's favor. Dr. Mack's report is anticipated to be favorable to the defense generally. Specifically, with respect to the liability expert, she finds that the District did nothing wrong and followed the standard of care, acting reasonably based upon the facts, viewed in the light most favorable to the Plaintiff. She has a different view entirely of Brimar and its drivers' actions in this situation. You may have been informed by Mr. Peck previously that the Brimar witnesses did not perform well at deposition. By contrast, the District witnesses performed very well. It was Brimar's insurance defense counsel who requested those 9 depositions of District witnesses, by the way, not the Plaintiff.

I would anticipate presenting a united front on Monday at conciliation, especially because by virtue of Judge Fischer's Order, your client, National, is responsible to defend both Brimar and the District. I have reached out to Mr. Peck to let him know that the driving force behind offering money in settlement on Monday will likely have to come from Brimar and National. As I have stated to you previously, I do not believe the District will authorize additional funds to settle this claim at this time where its fee claim remains an open issue in the federal case.

I can be available after 10:30 am tomorrow. I understand that you have a noon restriction. My cell is 412.443.8792. I look forward to hearing from you.

Thanks.

Jennifer S. Pepmeyer

Legal Assistant to Jaime N. Doherty, Howard J. Schulberg
and Stephen A. Hall

GOEHRING RUTTER & BOEHM

Frick Building

437 Grant Street, 14th Floor

Pittsburgh, PA 15219

Phone: 412-281-2400 x156 (Direct)

Fax: 412-281-2971

jpepmeyer@grblaw.com

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